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- 10 f. transmitting the at least one digital RF signal to a plurality of subscribers each
11 having a device for receiving and demodulating the at least one RF signal;
12 g. receiving over the PSTN a message from at least one subscriber receiving
13 device; and
14 h. retransmitting to other service providers each of the at least one messages from
15 the at least one subscriber receiving device.

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Cond.

1 ³⁰ ~~46~~. (Newly Added) The method of claim ²⁹ ~~45~~ wherein the at least one modulated,
2 multiplexed digital data stream is channelized into at least one digital UHF signal.

1 ³¹ ~~47~~. (Newly Added) The method of claim ²⁹ ~~45~~ wherein the resolution of the service is
2 approximately 256 by 240 pixels.

REMARKS

This amendment is in full and timely response to the non-final Office Action of December 24, 1998. A Petition to Extend time to within the third extended month and a Declaration under Rule 131(a) accompany this response. Reexamination and reconsideration is respectfully requested.

With this amendment, new claims 35 to 47 are being added. These claims correspond to the allowed claims 22 to 34 in parent application Serial no. 08/447,537. At

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least because these claims were allowed in the parent application, claims 35 to 47 are believed to be in condition for allowance.

Claim 1 has been rejected under § 102(e) as being anticipated by U.S. Patent No. 5,563,892 to Kostreski et al. ("Kostreski"). Claims 2 to 6, 7 to 15, and 32 to 34 have been rejected as being obvious over Kostreski in view of U.S. Patent No. 5,600,364 to Hendricks and claim 6 has been rejected as being obvious over Kostreski in view of some allegedly admitted prior art.

All of the rejections issued in the Office Action therefore have the Kostreski patent as the primary reference. The Examiner relied upon the Kostreski patent under § 102(e) on the basis that the patent application forming the basis for the Kostreski patent was filed before the instant patent application. As demonstrated below, the Kostreski patent does not qualify as prior art under § 102(e) since the date of invention for this application is prior to the filing date of the Kostreski patent application. Consequently, the rejections based on Kostreski should be withdrawn and the Examiner is respectfully requested to allow claims 1 to 15 and 32 to 34.

A Declaration under 37 C.F.R. § 131 is being submitted with this Amendment and this Declaration establishes that the invention was completed prior to the filing date for the Kostreski patent application, in other words prior to March 16, 1995. The Declaration demonstrates that an actual reduction to practice occurred prior to the Kostreski filing date. For instance, the Exhibit to the Declaration established that testing occurred prior to

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Kostreski's effective filing date, and, moreover, that system level testing occurred prior to Kostreski's effective filing date. The Exhibit illustrates LMDS System Diagram, the actual LMDS node transceiver used in testing, the actual LMDS CPE transceiver used in testing, architecture for the LMDS node station equipment, and architecture for the LMDS CPE station equipment. Moreover, the Exhibit contains test results which confirmed technical assumptions about the feasibility of the invention. The Declaration therefore establishes that the Kostreski patent is not prior art under § 102(e) and that the rejections must be withdrawn.

Claims 1 to 15 and 32 to 47 are now in condition for allowance. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is encouraged to telephone the undersigned at (404) 815-6530.

Please charge any additional fees or credit any overpayment to Deposit Order
Account No. 11-0855.

Respectfully submitted,



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